



TOWN OF TYNGSBOROUGH

Office of the Board of Selectmen

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APPROVED

Board of Selectmen Meeting Minutes

Monday, May 6, 2013 at 6:00 P.M.

Community Room, Town Offices, 25 Bryants Lane

Members Present: Selectman Rick Reault, Selectman Robert Jackson, Selectwoman Karyn Puleo, Selectman Corliss Lambert,

Absent: Selectman Allen Curseaden

Staff Present: Town Administrator Michael Gilleberto, Assist Town Administrator Nina Nazarian, and Admin Assistant Therese Gay

The listing of matters are those reasonable anticipated by the Chairman which may be discussed at the meeting. Not all items listed may in fact be discussed, and other items not listed may also be brought up for discussion to the extent permitted by law. "Chairman Jackson read the following: "The following meeting is being recorded and broadcast through our local cable access channels on Comcast and Verizon FIOS. A recording of this meeting will also be available for viewing on our town's website - tyngsboroughma dot gov. Also, after instruction from the State Fire Marshall and the Tyngsborough Fire Chief, in the event of an emergency, there is an exit to my left and directly across from me, along the back wall."

1. 6:00 PM Open Meeting/Pledge of Allegiance/Board Introduction/Read Agenda

The Chairman opened the meeting at 6:00 PM. The Pledge of Allegiance was recited. The Agenda was read by Rick Reault, Clerk. The Board was introduced.

2. Reorganization

Chairman Jackson thanked the Board for assisting him during his term as Chairman, and thanked the office staff, and congratulated Selectman Reault on his reelection.

Chairman Jackson opened nominations for Chairman. Selectman Reault nominated Selectwoman Puleo for Chairwoman, hearing no further nominations, the Chairman entertained a motion for a vote from the Board. The Board voted 4-0-0 on a motion by Selectman Reault, second by Selectman Lambert to elect Karyn Puleo as Chairwoman.

The outgoing Chairman passed the gavel to incoming Chairwoman Puleo.

Chairwoman Puleo opened nominations for Vice Chairman, Selectman Reault nominated Selectman Jackson for Vice-Chairman. Chairwoman Puleo hearing no further nominations entertained a motion for a vote from the Board. The Board voted 4-0-0 on a motion by Selectman Reault, second by Selectman Lambert to elect Selectman Jackson as the Vice-Chairman.

Chairwoman Puleo opened nominations for Clerk, Selectman Jackson nominated Selectman Reault for Clerk. Chairwoman Puleo hearing no further nominations entertained a motion for a vote from the Board. The Board voted 4-0-0 on a motion by Selectman Jackson, second by Selectman Lambert to elect Selectman Reault as the Clerk.

3. 6:05 PM Special Permit Request – Pheasant Lane Mall, Middlesex Rd Parking Lot

The clerk read the legal notice and the Board voted 4-0-0 on a motion by Selectman Jackson, second by Selectman Lambert, to waive the reading of the abutters list. The Board voted 4-0-0 on a motion by Selectman Reault, second by Selectman Jackson, to open the evidentiary portion of the

hearing. The Chairwoman invited the petitioners to come forward and present their petition. The Administrator introduced the petition received by Ms. Jenna Coccimiglio on behalf of the Pheasant Lane Mall to host a Touch-A-Truck at the Pheasant Lane Mall Parking Lot located off Middlesex Road in Tyngsborough. Ms. Coccimiglio is requesting a special permit to host a Touch-A-Truck at the Pheasant Lane Mall on Saturday June 15, 2013 from the hours of 10:00AM to 2:00PM. The Pheasant Lane Mall hosts fundraisers to benefit the Simon Youth Foundation and the Tyngsborough Dare Program. It was a success last year and hope it will be a successful this year. All of the safety procedures are in place as security. The Board thanked Ms Coccimiglio for the presentation and wished her success on the event.

The Chairwoman asked if there were any abutters who wished to speak in favor of the petition. No one came forward to speak in favor.

The Chairwoman asked if there were any abutters who wished to speak against the petition. No one came forward to speak against.

The Board voted 4-0-0 on a motion by Selectman Jackson, second by Selectman Lambert, to close the evidentiary portion of the hearing. The Board voted 4-0-0 on a motion by Selectman Reault, second by Selectman Lambert, to approve the request as presented.

4. 6:20 PM Manager Change Request – GMRI. Inc. DBA Bahama Breeze

The Administrator introduced the petition for a manager change at the Bahama Breeze Restaurant, all documents are in order the CORI check came back with no issues. Ms. Tristen Jones, Chef Manager was present to introduce herself and to answer any questions the Board may have. Ms. Jones has been selected to fill the position of General Manager at the Tyngsborough restaurant. A question was asked on the TIP certification at the restaurant, Ms Jones said all training is done on line and all servers are required to take the certification. Ms. Jones has worked as Chef Manager for the last five years. The Board congratulated Ms. Jones on her new position. The Board voted 4-0-0 on a motion by Selectman Jackson, second by Selectman Lambert to approve the manager Change request as presented.

5. Meeting Minutes

A. Regular Session Meeting Minutes for Approval

1. Monday April 22, 2013

The Board voted 4-0-0 on a motion by Selectman Reault, second by Selectman Lambert to approve the minutes of Monday April 22, 2013.

2. Monday April 29, 2013

The Board voted 4-0-0 on a motion by Selectman Reault, second by Selectman Lambert to approve the minutes of Monday April 29, 2013 as revised.

B. Executive Session Minutes for Approval but not Release

1. Monday April 22, 2013

The Board voted 4-0-0 on a motion by Selectman Reault second by Selectman Lambert to approve but not release the executive session minutes of Monday April 22, 2013.

6. Citizen/Business Time

Citizens or business owners may contact the Office of the Selectmen to request to address the Selectmen during citizen/business time. Citizens or business owners who have not contacted the Office of the Selectmen in advance may address the Board of Selectmen on matters of interest to the public for not more than five (5) minutes.

Mr. Steve Bethiaume, Danforth Road resident came to the Board's meeting to discussion the condition and the acceptance of Danforth Road. The road is in deplorable condition, the shoulder is dissolving. Mr. Bethiaume has spoken to the Planning Board on the acceptance of the road, the Town has it as unaccepted as the State list shows it to be accepted. Mr. Bethiaume would like to see it upgraded because of the new homes that are proposed to be built on the remainder of the subdivision. The travel from heavy building equipment will deteriorate the road further. The Administrator updated everyone on the list of roads slated to be accepted at the next Annual Town

Meeting and Danforth Road is on that list for acceptance. Mr. Bethiaume thanked the Board for hearing him and for the update on the acceptance of Danforth Road.

7. Old Business

A. Town Accountant – Review/Appoint

The Finance Coordinator/Town Treasurer and the Administrator interviewed the three finalists for the position of Town Accountant. After review, the Administrator recommends Ms. Catherine Gabirel-Heusser for appointment to the position. Ms. Gabriel-Heusser brings substantial experience in the municipal finance field and will contribute significantly to our financial team. The position is covered by the Mid-Managers contract, and the Administrator recommends the Board offer Ms. Gabel-Heusser a starting salary of \$57,000 annually. The Administrator wishes to thank Mr. Eric Kinsherf and his assistant Carol for their assistance as Interim Accountant over the past year.

The Board voted 5-0-0 on a motion by Selectman, second by Selectman, to appoint Catherine Gabriel-Heusser as the Town Accountant for the Town of Tyngsborough effective Thursday May 23rd 2013, with a starting salary of \$57,000.00.

B. Board of Health Administrative Assistant – Review/Accept

The Selectmen received notice from the Board of Health for the acceptance of the Board of Health's appointment of Dariza Chan as the Administrative Assistant to the Board of Health. The Board of Health Members interviewed several candidates and selected Ms. Chan for the position. The Board voted 3-0-1 on a motion by Selectman Reault, second by Selectman Lambert to accept the appointment of Ms. Dariza Chan at the establish grade and wage at \$14.80 an hour. A question was raised as to why the Selectmen did not interview and appoint Ms. Chan. This is a union position and comes under the Board of Selectmen. Selectman Jackson abstains from voting.

C. 11 Indian Lane – Status

The Administrator has been working closely with the offices of Congresswoman Niki Tsongas and Senator Eileen Donoghue regarding the Town's interest in acquiring the building property located at 11 Indian Lane. The Congresswoman's Office has contacted the Federal Highway Administration, which has informed them that the requirement to obtain fair market value from disposition of any surplus property cannot be waived. The Congresswoman's office offered to assist the Board or Town in finding grant or other funding that could be used to offset the fair market value amount. The Administrator has had further dialogue with the Senator's Office and they are inquiring of MassDoT whether or not, if the fair market value were determined to be the same amount as the cost of demolition (estimated at \$60,000), MassDoT would offer that transaction as "fair market value" for Federal Highway's purposes. Accordingly, the Administrator has inquired of the Assessor's an updated assessment of the panel given the removal of utilities and other modifications to the proper since it was vacated. The Administrator will keep the Board updated on the progress.

D. Legislative Priorities – Update

The Administrator presented this update draft of the Legislative Priorities; he has incorporated revisions from the meeting of Feb. 11, 2013. Draft list of priorities is attached.

E. Senior Center – Status Update

The Administrator has prepared a letter to Mr. Finnegan regarding the potential alternatives to the construction of the senior center at Wynnbrook. The Board voted 4-0-0 on a motion by Selectman Lambert, second by Selectman Jackson to have the Administrator print the letter with the position/name change.

F. Cable Franchise Agreement – Status Update

The Administrator has not received a motion for this meeting; the Board will defer to the next scheduled meeting.

G. Annual/Special Town Meeting Warrant – Review and Discuss Draft Articles

The Board and the Finance Committee reviewed and discussed the draft warrant during the joint meeting with the Finance Committee.

8. 7:00 PM Joint Meeting with Finance Committee

The Finance Committee Members joined the Board of Selectmen to discuss the FY 2014 Budget and the monetary draft warrant article. The Fin Com and the Selectmen voted to recommend or not recommend the warrant articles. The Finance Committee Members present were Rob Mullin, Chris Mellen, Darryl Wickens, Scott Hammer and Paul Morin. The Finance Committee had called their meeting to order at 6:30 PM.

A. Review/Approve FY 2014 Budget

The Administrator reviewed the FY 2014 Article 5 budget with the Board and Finance Committee. This article does not include 1) a deposit into the Compensation Absence Fund, which will occur on a separate warrant article; 2) The Cherry Sheet state assessments, which occur via direct transaction; 3) Cherry Sheet special revolving aid, amount does not require appropriation; 4) reserve for abatements, which is authorized on the recapitulation sheet in the fall; 4) snow and ice carryover, which will be addressed as a transfer from the Overlay Surplus during the Special Town Meeting. The proposed article 5 budget, when combined with the five items above, expends \$34,510,259 and is within the limitations established by Proposition 2 ½. Total estimated revenues are \$34,510,259, which reflects funding levels approve in the House of Representatives. The Administrator thanked the Financial Coordinator for her work in putting article 5 together. The budget is balanced.

B. Review / Recommend Draft Warrant Articles

The Board and the Finance Committee reviewed the warrant articles and voted to place the articles on the warrant and voted to recommend the articles as follows:

- **Article 4.** To see if the Town will vote to fix the salary and compensation of elective officers of the Town as provided by Section 108 of Chapter 41 of the Massachusetts General Laws, as amended, for the Fiscal Year 2014 (July 1, 2013 - June 30, 2014), or take any other action relative thereto.

Salaries of the Elected Officials are included in the Department Appropriations to be submitted within Article 5.

		SALARIES		REQUEST		RECOMMENDED	
		7/01/12		7/01/13		7/01/13	
		6/30/13		6/30/14		6/30/14	
<u>Elective Town Officers</u>							
Moderator		\$ 0		\$ 0		\$ 0	
Selectmen Members (5)	\$ 0		\$ 0		\$ 0		
Tax Collector		\$ 61,200		\$ 62,424		\$ 62,424	
Town Clerk		\$ 56,909		\$ 57,222		\$ 57,222	
Assessors (3)							
Chairman		\$ 1		\$ 1		\$ 1	
Member (1)		\$ 0		\$ 0		\$ 0	
Member (1)		\$ 0		\$ 0		\$ 0	
Board of Health							
Chairman		\$ 0		\$ 0		\$ 0	
Members (4)		\$ 0		\$ 0		\$ 0	
Tree Warden		\$ 0		\$ 0		\$ 0	
Cemetery Commissioners (3)		\$ 0		\$ 0		\$ 0	
School Committee (7)		\$ 0		\$ 0		\$ 0	
Library Trustees (6)		\$ 0		\$ 0		\$ 0	
Sewer Commissioners (3)							
Chairman		\$ 0		\$ 0		\$ 0	
Member (1)		\$ 0		\$ 0		\$ 0	
Member (1)		\$ 0		\$ 0		\$ 0	
Planning Board (5)							
Chairman		\$ 0		\$ 0		\$ 0	
Members (4)		\$ 0		\$ 0		\$ 0	
Finance Committee (5)		\$ 0		\$ 0		\$ 0	
Constables (2)		\$ 0		\$ 0		\$ 0	
Greater Lowell Technical High School (1)		\$ 0		\$ 0		\$ 0	

Submitted by: Board of Selectmen

The Board of Selectmen voted 4-0-0 on a motion by Selectman Jackson, second by Selectman Reault, to place article 4 on the warrant and to recommend article 4.

The Finance Committee voted 5-0-0 on a motion by Member Wickens, second by Member Hammer to recommend this article.

- **Article 5.** To see if the Town will vote to raise and appropriate and/or transfer from available funds such sums of money as may be necessary to fund town expenses for Fiscal Year 2014 (July 1, 2013 - June 30, 2014), or take any other action relative thereto.

Submitted by: Board of Selectmen

The Board of Selectmen voted 4-0-0 on a motion by Selectman Jackson, second by Selectman Reault, to place article 5 on the warrant and to recommend article 5.

The Finance Committee voted 5-0-0 on a motion by Member Wickens, second by Member Hammer to recommend article 5.

- **Article 6.** To see if the Town will vote to appropriate by transfer from the Billboard Stabilization Fund the sum of \$20,000.00 to be expended by the Board of Selectmen to be used to stabilize the tax rate for Fiscal Year 2014 by funding recreational, public safety, or other public purposes, or take any other action relative thereto.

Submitted by: Board of Selectmen

The Board of Selectmen voted 4-0-0 on a motion by Selectman Reault, second by Selectman Lambert, to place article 6 on the warrant and to recommend article 6.

The Finance Committee voted 5-0-0 on a motion by Member Wickens, second by Member Hammer to recommend article 6.

- **Article 7.** To see if the Town will vote to appropriate by transfer from Free Cash the sum of \$199,478 to be expended by the Board of Selectmen to be used to stabilize the tax rate for Fiscal Year 2014, or take any other action relative thereto.

Submitted by: Board of Selectmen

The Board of Selectmen voted 4-0-0 on a motion by Selectman Reault, second by Selectman Lambert, to place article 7 on the warrant and to recommend article 7.

The Finance Committee voted 5-0-0 on a motion by Member Wickens, second by Member Hammer to recommend article 7.

Superintendent Ciampa and School Committee Chairman Paul Mitchell were present to answer any questions or offer any explanation on items 5 and 6 in Article 8.

- **Article 8.** To see if the Town will vote to appropriate from available funds or borrow the sum of \$517,000, and that the Town be authorized to accept any available grant dollars, for the following purposes, or take any other action relative thereto.

<u>Department Item</u>	<u>Amount</u>	<u>To be Expended by</u>
1. Highway Dump Truck with plow/sander	\$140,000	Board of Selectmen
2. Highway Wood Chipper	\$52,000	Board of Selectmen
3. Selectmen Town Buildings Master Plan	\$50,000	Board of Selectmen
4. Selectmen Town Offices – Replace Carpeting	\$40,000	Board of Selectmen
5. School Concessions/Restrooms	\$185,000	School Committee
6. School Technology	\$50,000	School Committee

for a total of \$517,000, or take any other action relative thereto.

Submitted by: Board of Selectmen and Capital Asset Management Committee

The Board of Selectmen voted 4-0-0 on a motion by Selectman Reault, second by Selectman Lambert, to place article 8 on the warrant and to recommend article 8.

The Finance Committee defer recommendation to Town Meeting Floor.

- **Article 9.** To see if the Town will vote to raise and appropriate the sum of \$12,143.00 to a special purpose Compensated Absence Fund, for the purpose of funding the future payment of accrued liabilities for compensated absences due any Town employee upon the termination of such employee's employment, or take any other action relative thereto.

Submitted by: Board of Selectmen

The Board of Selectmen voted 4-0-0 on a motion by Selectman Jackson, second by Selectman Lambert, to place article 9 on the warrant and to recommend article 9.

The Finance Committee voted 5-0-0 on a motion by Member Wickens, second by Member Mellen to recommend article 9.

- **Article 10.** To see if the Town will vote to appropriate by transfer the sum of \$15,444.00 from the Unfunded Pension Liability Trust Fund to be used to stabilize the tax rate for FY2014 by funding the Town's Middlesex County Retirement System assessment, or take any other action relative thereto.

Submitted by: Board of Selectmen

The Board of Selectmen voted 4-0-0 on a motion by Selectman Jackson, second by Selectman Lambert, to place article 10 on the warrant and to recommend article 10.

The Finance Committee voted 5-0-0 on a motion by Member Wickens, second by Member Mellen to recommend article 10.

- **Article 11.** To see if the Town will vote to raise and appropriate the sum of \$15,444.00 to the Other Post Employment Liability Benefits Trust Fund, established under the provisions of MGL Chapter 32B Section 20, for the purpose of funding health care and other post-employment benefits, or take any other action relative thereto.

Submitted by: Board of Selectmen

The Board of Selectmen voted 4-0-0 on a motion by Selectman Jackson, second by Selectman Lambert, to place article 11 on the warrant and to recommend article 11.

The Finance Committee voted 5-0-0 on a motion by Member Wickens, second by Member Mellen to recommend article 11.

- **Article 12.** To see if the Town will vote to certify the Chapter 90 apportionment for Fiscal Year 2014 of up to \$562,145 as an available fund to be expended by the Board of Selectmen, or take any other action relative thereto.

Submitted by: Board of Selectmen

The Board of Selectmen voted 4-0-0 on a motion by Selectman Jackson, second by Selectman Lambert, to place article 12 on the warrant and to recommend article 12. The Finance Committee voted 5-0-0 on a motion by Member Wickens, second by Member Mellen to recommend article 12.

- **Article 13.** To see if the Town will vote to authorize pursuant to the authority granted under Massachusetts General Laws Chapter 44, Section 53E½ the following revolving funds for the purpose of receiving fees and making disbursements in connection with the duties of the following town entities or as so specified below, and that any surplus revenue accumulated in

FY 2013 and FY 2014 shall remain in the revolving accounts for each of the following town entities:

<u>Fund</u>	<u>Programs & Purposes</u>	<u>Departmental Receipts</u>	<u>Authorization</u>	<u>Maximum Annual Expenditure</u>
Fire Department	Fire programs and materials	Hazmat fees	Board of Fire Engineers or designee	\$20,000.00
Recreation Committee	Recreational programs and activities	Fees collected from participants	Board of Selectmen or designee	\$120,000.00
School Field Use Committee	Field maintenance	Field use fees	School Field Use Committee or designee	\$10,000.00
Recycling Committee	Recycling programs and materials	Fees collected from participants	Board of Health or designee	\$ 7,000.00

Board of Health	Collection and disposal of bulky items and appliances	Fees collected from participants	Board of Health or designee	\$30,000.00
Board of Health	Reimbursement program for Medicare Plan members	Medicare reimbursements	Board of Health or designee	\$ 6,000.00
Conservation Commission	Conservation Commission activities	Fees from local Wetland Protection By-law	Conservation Commission or designee	\$ 5,000.00
Sealer of Weights and Measures	Inspection activities	Fees collected from participants	Board of Selectmen	\$ 3,000.00

or take any other action relative thereto.

Submitted by: Town Entities as shown

The Board of Selectmen voted 4-0-0 on a motion by Selectman Jackson, second by Selectman Lambert, to place article 13 and to recommend article 13.

The Finance Committee voted 5-0-0 on a motion by Member Wickens, second by Member Hammer to recommend article 13.

- **Article 14.** To see if the Town will vote to authorize the Board of Selectmen to enter into Lease/Purchase Agreements up to five years to purchase equipment for Town Departments. Said contracts shall be subject to annual appropriations, or take any other action relative thereto.

Submitted by: Board of Selectmen

The Board of Selectmen voted 4-0-0 on a motion by Selectman Jackson, second by Selectman Lambert, to place article 14 on the warrant and to recommend article 14.

The Finance Committee voted 5-0-0 on a motion by Member Wickens, second by Member Hammer to recommend article 14.

- **Article 15.** To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money to be expended by the Sewer Commission to operate the Sewer Enterprise for Fiscal Year 2014 as follows:
That the following sums be appropriated:

Salaries	\$ 248,698.00
Expenses	\$ 659,862.00
Capital Outlay	\$ 714,500.00
Debt	\$ 75,407.00
Subtotal	\$1,698,467.00
Indirect Costs to General Fund	\$ 96,336.00
Total	\$1,794,803.00

That \$1,698,467 be appropriated from the Sewer Enterprise fund

Department receipts	\$ 1,167,145.00
Retained Earnings	\$ 531,322.00

That \$96,336 be included in appropriations from the General Fund for indirect costs and be allocated to the Sewer Enterprise for funding, or take any other action relative thereto.

Submitted by: Sewer Commissioners

The Board of Selectmen voted 4-0-0 on a motion by Selectman Jackson, second by Selectman Lambert, to place article 15 on the warrant and to recommend article 15.

The Finance Committee voted 5-0-0 on a motion by Member Wickens, second by Member Hammer to recommend article 15.

- **Article 16.** To see if the Town will vote that the following sums be appropriated or reserved from estimated annual revenues of the Community Preservation Fund for the fiscal year 2014, with each item to be considered a separate appropriation, for the payment of administrative expenses of the Community Preservation Committee, debt service, community preservation projects, and all other necessary and proper expenses.

Appropriations

Administrative Expenses	\$ 30,000.00
Long Term Debt Services	\$ 50,000.00
Interest on Long Term Debt	\$ 2,475.00
Lake Masscuppic Weed Control Program	\$ 6,000.00
Total CPC Appropriations	\$ 88,475.00
<u>Reserves</u>	
To Reserve for Historic Preservation	\$ 60,000.00
To Reserve for Affordable Housing	\$ 60,000.00
To Reserve for Open Space	\$ 60,000.00
FY 2014 Budgeted Reserve	\$180,000.00

Submitted by: Community Preservation Committee

The Board of Selectmen voted 4-0-0 on a motion by Selectman Jackson, second by Selectman Lambert, to place article 16 on the warrant and to recommend article 16.

The Finance Committee voted 5-0-0 on a motion by Member Wickens, second by Member Mellen to recommend article 16.

The Community Preservation recommends this article.

Selectman Lambert declared that he serves on the Tyngsborough Housing Authority Board and Mrs. Marie Lambert is a member on the Historical Commission. To avoid any conflict Selectman Lambert left the meeting for articles 17 -20.

Article 17. To see if the Town will vote to appropriate by transfer from existing Community Preservation Budgeted Reserve, Historic Reserve, Unreserved Fund Balance, and/or borrow a sum of money not to exceed \$570,000.00 for the purchase and restoration of the First Parish Meeting House, 214 Middlesex Road, Tyngsborough, MA, to be expended by the Board of Selectmen; and to meet this appropriation, if by borrowing, the Town Treasurer, with the approval of the Selectmen, is authorized to borrow a sum of money pursuant to M.G.L. c. 44B, § 11, or pursuant to any other enabling authority; and to issue bonds or notes of the Town, or take any other action relative thereto. Submitted by: Community Preservation Committee and Board of Selectmen

The Board of Selectmen voted 3-0-0 on a motion by Selectman Jackson, second by Selectman Reault, to place article 17 on the warrant and to recommend article 17.

The Finance Committee voted 5-0-0 on a motion by Member Wickens, second by Member Morin to recommend article 17.

The Community Preservation Committee recommends this article.

Article 18. To see if the Town will vote to appropriate by transfer from existing Community Preservation Affordable Housing Reserve a sum of \$400,000.00, and borrow a sum of \$400,000.00 to total \$800,000.00 for the creation of four affordable housing units to be built at Red Pine Terrace, 186 Frost Road, Tyngsborough, MA, under the direction of the Tyngsborough Housing Authority, after full approval by the Commonwealth of Massachusetts, Department of Housing and Community Development, to be expended by the Tyngsborough Housing Authority; and to meet this appropriation, the Town Treasurer, with the approval of the Selectmen, is authorized to borrow \$400,000 pursuant to M.G.L. c. 44B, § 11, or pursuant to any other enabling authority; and to issue bonds or notes of the Town, or take any other action relative thereto.

Submitted by: Community Preservation Committee

The Board of Selectmen voted 3-0-0 on a motion by Selectman Reault, second by Selectman Jackson, to place article 18 on the warrant; deferred recommendation to Town Meeting Floor.

The Finance Committee deferred recommendation to Town Meeting Floor.

The Community Preservation Committee recommends this article.

Article 19. To see if the Town will vote to appropriate by transfer from existing Community Preservation Budgeted Reserve, Open Space Reserve, Unreserved Fund Balance, and/or borrow a sum of money in the amount of \$100,000.00 for the acquisition and installation of playground equipment, adult exercise stations and dog park, per the Recreation Department's Playground/Fields Improvement Plan, to be expended by the Recreation Department; and to meet this appropriation, and if by borrowing, the Town Treasurer, with the approval of the Selectmen, is authorized to borrow a sum of money pursuant to M.G.L. c. 44B, § 11, or pursuant to any other enabling authority; and to issue bonds or notes of the Town; and further, that the Recreation Department is authorized to accept any grants in support of these projects, or take any other action relative thereto.

Submitted by: Community Preservation Committee

The Board of Selectmen voted 4-0-0 on a motion by Selectman Jackson, second by Selectman Reault, to place article 19 on the warrant and voted 2-1-1 to recommend article 19.

Selectwoman Puleo would like it if the Recreation Dept. consider there be a band on dogs at the athletic fields, and not propose the dog park at the Riverfront Park because it would detract from the beauty of the park.

The Finance Committee voted 5-0-0 on a motion by Member Wickens, second by Member Hammer to recommend article 9.

- **Article 20.** To see if the Town will vote to appropriate by transfer from existing Community Preservation Budgeted Reserve, Historic Reserve, and or Unreserved Fund Balance an amount not to exceed \$76,000. for the restoration of the historic Adams Barn located on Kendall Road at the Town Center, Tyngsborough, MA , to be expended by the Board of Selectmen, or take any action relative thereto. Submitted by: Community Preservation Committee

The Board of Selectmen voted 3-0-0 on a motion by Selectman Reault, second by Selectman Jackson, to place article 20 on the warrant and voted 2-1-0 to recommend article 20.

The Finance Committee voted 5-0-0 on a motion by Member Wickens, to recommend, no second the motion fails; and voted 3-1-1 on a motion by Member Morin, second my Member Mellen to not recommend article 20. Member Hammer abstained from voting and Member Wickens voted against the motion to not recommend.

Selectman Lambert returned to the meeting for the remaining articles.

- **Article 21.** To see if the Town will authorize the Board of Selectmen to sell and convey a parcel of land supposedly numbered 5 Industrial Way and being approximately 3.110 acres of land and shown on Assessors Map 21, Block 2D, Lot 0, and also on a plan of land entitled, "Subdivision Plan of Gateway Industrial Park in Tyngsborough, Mass." recorded in the Middlesex North Registry of Deeds, Plan Book 138, Plan 47, pursuant to M.G.L. c. 30B, such land having been determined to be no longer needed for any municipal purposes, upon such terms and conditions as determined by the Selectmen, or take any other action relative thereto.

Submitted by: Board of Selectmen

The Board of Selectman voted 5-0-0 on Monday April 29, 2013 on a motion by Selectman Lambert, second by Selectman Reault to place article 21 on the warrant and to recommend article 21.

The Finance Committee voted 5-0-0 on a motion by Member Wickens, second by Member Mellen to recommend article 21.

- **Article 22.** To see if the Town will vote to authorize the Board of Selectmen to convey to direct abutters a parcel of land situated on Willowdale Road, having approximately 4,785 square feet of land and shown on Assessors Map 33, Block 10A, Lot 0, and also on a plan of land entitled, "Plan of Land surveyed for Charles A. Sherburne in Tyngsboro, Mass., March 1901" recorded in the Middlesex North Registry of Deeds, Plan Book 17, Plan 15, such land having been determined to be no longer needed for any municipal purposes, upon such terms and conditions as shall be determined by the Selectmen, or take any other action relative thereto.

Submitted by: Board of Selectmen

The Board of Selectman voted 5-0-0 on Monday April 29, 2013 on a motion by Selectman Lambert, second by Selectman Reault to place article 22 on the warrant and to recommend article 22.

The Finance Committee voted 5-0-0 on a motion by Member Wickens, second by Member Mellen to recommend article 22.

The Finance Committee voted 5-0-0 on a motion by Member Wickens, second by Member Morin to adjourn their meeting. The Finance Committee adjourned their meeting at 8:45PM.

- **Article 23.** To see if the Town will vote to amend the Town Bylaws by adding the following section to Article III: No Town employee who is salaried or is paid wages or any monetary consideration whatsoever shall be a selectman after the adoption of this bylaw. This bylaw shall not apply to any selectman presently holding office if such selectman is re-elected a selectman. A Town employee is not prohibited from seeking the office of selectman; but, if elected, such employee shall resign from his or her position before assuming the duties of a selectman. or take any other action relative thereto. Submitted by: Board of Selectmen

The Board of Selectmen voted 4-0-0 on a motion by Selectman Jackson, second by Selectman Lambert to place article 23 on the warrant as printed and recommends sending article 23 to Town Counsel for a change in the language and deferred recommendation to Town Meeting Floor.

- **Article 24.** To see if the Town will vote to amend the Town By-Laws by deleting Article IX in its entirety and amending it to read: Section 1. No street shall be laid out or accepted by the Town which has been created and/or constructed after January 1, 1952, unless approved and constructed in accordance with the Subdivision Control Law and the regulations of the Planning Board and laid out by the Board of Selectmen and accepted by the Town in accordance with the provisions of M.G.L. c. 82, §§ 21 through 24, or take any other action relative thereto. Submitted by: Board of Selectmen

The Board of Selectmen voted 4-0-0 on a motion by Selectman Jackson second by Selectman Lambert to place article 24 on the warrant and deferred recommendation to Town Meeting Floor.

- **Article 25.** To see if the Town will accept the layout of certain Town ways below described, made by the Board of Selectmen under the provisions of M.G.L. c. 79, § 21 through 24, and any other enabling statute, filed in the Office of the Town Clerk with the plans there mentioned and are referred to for more particular description, and raise and appropriate any money that may be necessary, and determine how such money shall be expended for the payment of any damages, if any, and the layouts being substantially as follows:

1. Ashford Drive shown on The Pines Subdivision, Tyngsborough, MA, As-Built Plan and Profile of Ashford Drive (Formerly Hemlock Dr.), dated October 6, 1994 prepared for Draco Homes, Inc., by Village Surveying, recorded at the Middlesex North District Registry of Deeds in Plan Book 194, Plan No. 108. The layout of a Town way substantially in the location of a private way known as Ashford Drive.
2. Belfair Lane shown on plan titled Definitive Subdivision, Plan of Land, Granite Hill Estates, Tyngsborough, MA, dated May 14, 1998, prepared for Granite Hill Estates, LLC, by LandTech Consultants, Inc., recorded at the Middlesex North District Registry of Deeds in Plan Book 198, Plan No. 57. The layout of a Town way substantially in the location of a private way known as Belfair Lane.
3. Bridle Path Way shown on plan titled Subdivision Plan of Land of Stonehedge Farm at Tyngsborough, MA, dated July 23, 1979, prepared for Gilbert G. Campbell, by Dana F. Perkins and Assoc., Inc., recorded at the Middlesex North District Registry of Deeds in Plan Book 130, Plan No. 12. The layout of a Town way substantially in the location of a private way known as Bridle Path Way.
4. Brookview Circle shown on plan titled Plan of Land, Brookview Estates in Tyngsborough, MA, dated June 22, 1995, revised September 24, 1995, prepared for Applewood Construction Corp., by Marchionda & Assoc., LP, recorded at the Middlesex North District Registry of Deeds in Plan Book 190, Plan No. 55. The layout of a Town way substantially in the location of a private way known as Brookview Circle.
5. Chandler Road shown on plan titled Definitive Subdivision, Plan of Land, Tyler Estates, Tyngsborough, MA, dated October 21, 1996, revised December 2, 1997, prepared for Greystone Estates, Inc. c/o Fletcher Granite Quarry, by LandTech Consultants, Inc., recorded at the Middlesex North District Registry of Deeds in Plan Book 197, Plan No. 39. The layout of a Town way substantially in the location of a private way known as Chandler Road.
6. Chard Road shown on plan titled Definitive Subdivision, Plan of Land, Country Estates, Tyngsborough, MA, dated July 16, 1987, revised November 3, 1987, prepared for J-Mor Development, Inc., prepared by Howe Surveying Assoc. Inc., recorded at the Middlesex North District Registry of Deeds in Plan Book 162, Plan No 137. The layout of a Town way substantially in the location of a private way known as Chard Road.

7. Chelsea Way shown on plan titled Kelsey Estates, "Definitive Plan", Chelsea Way, Tyngsboro, MA, dated May 3, 1989, revised June 10, 1993, prepared for A&M Development Corp., by H-Star Engineering, Inc., recorded at the Middlesex North District Registry of Deeds in Plan Book 182, Plan No. 67. The layout of a Town way substantially in the location of a private way known as Chelsea Way.
8. Connell Drive Extension shown on plan titled Definitive Subdivision Plan, Homestead Estates, Connell Drive, Tyngsborough, MA, dated August 1, 1995 revised October 18, 1995, prepared for Connell Construction, Inc., by Cuoco & Cormier Engineering, Assoc., Inc. recorded at the Middlesex North District Registry of Deeds in Plan Book 189, Plan No. 139. The layout of a Town way substantially in the location of a private way known as Connell Drive Extension.
9. Daisy Lane shown on plan titled Record Plan, Bridge Meadow Acres in Tyngsborough, MA, dated March 1993, revised April 2, 1993, prepared for Bridge Meadow Development, by Marchionda & Assoc., Inc., recorded at the Middlesex North District Registry of Deeds in Plan Book 182, Plan No. 20. The layout of a Town way substantially in the location of a private way known as Daisy Lane.
10. Dane Circle shown on plan titled Definitive Subdivision Homestead Estates, Dane Circle, dated August 1, 1995, revised October 18, 1995, prepared for Connell Construction, Inc., by Cuoco & Cormier Engineering Assoc., Inc., recorded at the Middlesex North District Registry of Deeds in Plan Book 189, Plan No. 139. The layout of a Town way substantially in the location of a private way known as Dane Circle.
11. Demauro Drive shown on plan titled Definitive Subdivision, Plan of Land Willowdale Road, Tyngsborough, MA, dated June 30, 1986, revised September 18, 1986, prepared for Nicholas & Deborah Demauro, by Howe Surveying Assoc., Inc., recorded at the Middlesex North District Registry of Deeds in Plan Book 157, Plan No. 67. The layout of a Town way substantially in the location of a private way known as Demauro Drive.
12. Descheneaux Lane shown on plan titled Subdivision Plan of Land in Tyngsborough, MA. dated August 1987, prepared for Dennis Descheneaux, by Armand E. Provost, Jr., Surveyors, recorded at the Middlesex North District Registry of Deeds in Plan Book 148, Plan No. 155. The layout of a Town way substantially in the location of a private way known as Descheneaux Lane.
13. Diamond Street shown on plan titled Definitive Subdivision Plan, Park Place, Tyngsborough, MA, dated November 25, 1997, revised January 28, 1998, prepared for Applewood Construction, by Diversified Civil Engineering, recorded at the Middlesex North District Registry of Deeds in Plan Book 196, Plan No. 74. The layout of a Town way substantially in the location of a private way known as Diamond Street.
14. Emerald Street shown on plan titled Definitive Subdivision Plan, Park Place, Tyngsborough, MA, dated November 25, 1997, revised January 28, 1998, prepared for Applewood Construction, by Diversified Civil Engineering, recorded at the Middlesex North District Registry of Deeds in Plan Book 196, Plan No. 74. The layout of a Town way substantially in the location of a private way known as Emerald Street.
15. Florence Way shown on plan titled Florence Way, "Definitive Plan", Chard Road, Tyngsborough, MA, dated July 15, 1990, revised January 7, 1991, prepared for Earth Realty, by H-Star Engineering, Inc., recorded at the Middlesex North District Registry of Deeds in Plan Book 176, Plan No. 47. The layout of a Town way substantially in the location of a private way known as Florence Way.
16. Independence Drive shown on plan titled Mount Royal Estates, Subdivision, Plan of Land in Tyngsborough, MA, dated January 14, 1980, prepared for Draco Homes, Inc., by Gabor Szava-Kovats, recorded at the Middlesex North District Registry of Deeds in Plan Book 133, Plan No. 7. The layout of a Town way substantially in the location of a private way known as Independence Drive.
17. Jamie Way shown on plan titled Definitive Subdivision Plan, Swan Pond Estates, dated July 20, 1995, prepared for A. M. Development, by Meisner Brem Corp., recorded at the Middlesex North District Registry of Deeds in Plan Book 189, Plan No. 148. The layout of a Town way substantially in the location of a private way known as Jamie Way.
18. Jasper Lane shown on plan titled Definitive Subdivision, Plan of Land, "Perham Woods", Tyngsboro MA, dated January 27, 1989 revised March 29, 1989, prepared for Richard N. Singleton, by Richard F. Kaminski & Assoc., Inc., recorded at the Middlesex North District Registry of Deeds in Plan Book 169, Plan No. 12. The layout of a Town way substantially in the location of a private way known as Jasper Lane.

19. Kristin Way shown on plan titled Donna Estates, "Definitive Plan", Kristin Way Tyngsboro, MA, dated May 5, 1992, revised September 8, 1992, prepared for David MacDonald, by H-Star Engineering, Inc., recorded at the Middlesex North District Registry of Deeds in Plan Book 180, Plan No. 30. The layout of a Town way substantially in the location of a private way known as Kristin Way.
20. Laurel shown on plan titled Record Plan, Bridge Meadow Acres in Tyngsborough, MA, dated March 1993, revised April 2, 1993, prepared for Bridge Meadow Development, by Marchionda & Assoc., Inc., recorded at the Middlesex North District Registry of Deeds in Plan Book 182, Plan No. 20. The layout of a Town way substantially in the location of a private way known as Laurel Lane.
21. Liberty Lane shown on plan titled Definitive Subdivision, Plan of Land, Willowdale Road, Tyngsborough, MA, dated June 30, 1986, revised September 18, 1986, prepared for Nicholas & Deborah Demauero, by Howe Surveying Assoc., Inc., recorded at the Middlesex North District Registry of Deeds in Plan Book 157, Plan No. 67. The layout of a Town way substantially in the location of a private way known as Liberty Lane.
22. Mackey Drive shown on plan titled Definitive Subdivision Plan of James Estates, Plan of Lots, Mackey Drive, Tyngsboro, MA, dated April 10, 1994, revised July 29, 1994, prepared for Mackey Construction, Co., by Lakeview Engineering (A division of the Engineering Design Group, Enterprises), recorded at the Middlesex North District Registry of Deeds in Plan Book 187, Plan No. 109. The layout of a Town way substantially in the location of a private way known as Mackey Drive.
23. Mayflower Way shown on plan titled Definitive Subdivision Plan, Olde Colony Hills, Scribner Hill Road, Tyngsborough, MA, dated February 14, 1990, revised May 4, 1990, prepared for Connell Construction, by Cuoco & Cormier, Inc., recorded at the Middlesex North District Registry of Deeds in Plan Book 173, Plan No. 50. The layout of a Town way substantially in the location of a private way known as Mayflower Way.
24. Michigan Road shown on plan titled Scribner Hill Estates, Definitive Subdivision, Plan of Land in Tyngsborough, MA, dated July 6, 1983, prepared for Winter Hill Development Corp., by Village Engineering & Surveying, recorded at the Middlesex North District Registry of Deeds in Plan Book 144, Plan No. 38. The layout of a Town way substantially in the location of a private way known as Michigan Road.
25. Minuteman Drive shown on plan titled Definitive Subdivision Plan, Olde Colony Hills, Scribner Hill Road, Tyngsborough, MA, dated February 14, 1990, revised May 4, 1990, prepared for Connell Construction, by Cuoco & Cormier, Inc., recorded at the Middlesex North District Registry of Deeds in Plan Book 173, Plan No. 50. The layout of a Town way substantially in the location of a private way known as Minuteman Drive.
26. Montana Drive shown on plan titled Massapoag Estates, "Definitive", Plan of Land in Tyngsborough, MA, dated May 1987, prepared for Gibraltar Development, Corp., by Campbell Luger Land Surveyors & Assoc. Inc., recorded at the Middlesex North District Registry of Deeds in Plan Book 180, Plan No. 35. The layout of a Town way substantially in the location of a private way known as Montana Drive.
27. Nevada Road shown on plan titled Scribner Hill Estates, Definitive Subdivision, Plan of Land in Tyngsborough, MA, dated July 6, 1983, prepared for Winter Hill Development Corp., by Village Engineering & Surveying, recorded at the Middlesex North District Registry of Deeds in Plan Book 144, Plan No. 38. The layout of a Town way substantially in the location of a private way known as Nevada Road.
28. Old Hickory Road shown on plan titled Plan of Land, Hickory Hill Estates in Tyngsborough, MA, dated October 25, 1996, prepared for Applewood Construction Corp., by Marchionda & Associates, LP, recorded at the Middlesex North District Registry of Deeds in Plan Book 193, Plan No. 12. The layout of a Town way substantially in the location of a private way known as Old Hickory Road.
29. Old Stonehill Road shown on plan titled Definitive Subdivision Plan, Swan Pond Estates, Tyngsborough, MA, dated July 20, 1995, prepared for A. M. Development, by Meisner Brem Corp., recorded at the Middlesex North District Registry of Deeds in Plan Book 189, Plan No. 148. The layout of a Town way substantially in the location of a private way known as Old Stonehill Road.
30. Pilgrim Circle shown on plan titled Definitive Subdivision Plan, Olde Colony Hills, Scribner Hill Road, Tyngsborough, MA, dated February 14, 1990, revised May 4, 1990, prepared for Connell Construction, by Cuoco & Cormier, Inc., recorded at the Middlesex North District Registry of Deeds in Plan Book 173, Plan No. 50. The layout of a Town way substantially in the location of a private way known as Pilgrim Circle.

31. Ridge Road shown on plan titled Mount Royal Estates, Subdivision, Plan of Land in Tyngsborough, MA, dated January 14, 1980, prepared for Draco Homes, Inc., by Gabor Szava-Kovats, recorded at the Middlesex North District Registry of Deeds in Plan Book 133, Plan No. 7. The layout of a Town way substantially in the location of a private way known as Ridge Road.
32. Sleepy Hollow Lane, shown on plan titled As-Built Plan in Tyngsborough MA, dated May 10, 2007, prepared for Applewood Construction, prepared by Land Engineering & Environmental Services, Inc.. The layout of a Town way substantially in the location of a private way known as Sleepy Hollow Lane.
33. Strawberry Hill Lane shown on plan titled Plan of Land, Strawberry Hill Estates, Tyngsborough, MA, dated August 24, 1999, prepared for TBG Development Corp., by Howe Surveying Assoc., Inc., recorded at the Middlesex North District Registry of Deeds in Plan Book 201, Plan No. 68. The layout of a Town way substantially in the location of a private way known as Strawberry Hill Lane.
34. Sunset Way shown on plan titled Plan of Land, Sunset Way, Tyngsborough, MA, dated June 1, 1999, revised August 5, 1999, prepared for Wickens Contracting, by Howe Surveying Assoc., Inc., recorded at the Middlesex North District Registry of Deeds in Plan Book 201, Plan No. 120. The layout of a Town way substantially in the location of a private way known as Sunset Way.
35. Trinity Drive shown on plan titled Mount Royal Estates, Subdivision, Plan of Land in Tyngsborough, MA, dated January 14, 1980, prepared for Draco Homes, Inc., by Gabor Szava-Kovats, recorded at the Middlesex North District Registry of Deeds in Plan Book 133, Plan No. 7. The layout of a Town way substantially in the location of a private way known as Trinity Drive.
36. Vermont Road shown on plan titled Scribner Hill Estates, Definitive Subdivision, Plan of Land in Tyngsborough, MA, dated July 6, 1983, prepared for Winter Hill Development Corp., by Village Engineering & Surveying, recorded at the Middlesex North District Registry of Deeds in Plan Book 144, Plan No. 38. The layout of a Town way substantially in the location of a private way known as Vermont Road.
37. Violet Lane shown on plan titled Record Plan, Bridge Meadow Acres in Tyngsborough, MA, dated March 1993, revised April 2, 1993, prepared for Bridge Meadow Development, by Marchionda & Assoc., Inc., recorded at the Middlesex North District Registry of Deeds in Plan Book 182, Plan No. 20. The layout of a Town way substantially in the location of a private way known as Violet Lane.
38. Waterway Place shown on plan titled Definitive Subdivision Plan, "Waterway Place", Plan of Land in Tyngsborough, MA, dated July 1, 1994, prepared for Rural Concern Development, by William G. Troy & Associates, recorded at the Middlesex North District Registry of Deeds in Plan Book 192, Plan No. 5. The layout of a Town way substantially in the location of a private way known as Waterway Place.
39. Wintergreen Drive shown on plan titled The Pines, Subdivision, Plan of Land in Tyngsborough, MA, dated September 12, 1983, prepared for Draco Homes, Inc., by Ross Engineering Co., recorded at the Middlesex North District Registry of Deeds in Plan Book 146, Plan No. 33. The layout of a Town way substantially in the location of a private way known as Wintergreen Drive.

or take any other action relative thereto.

Submitted by: Planning Board and Board of Selectmen

The Board of Selectmen voted 4-0-0 on a motion by Selectman Jackson, second by Selectman Reault to place article 25 on the warrant and to recommend article 25.

The Finance Committee deferred recommendation to Town Meeting Floor. Note: The Board of Selectman reviewed this article out of order to give the Finance Committee an opportunity to comment on this article.

- **Article 26.** To see if the Town will vote to amend Section 2.11.44 of the Town of Tyngsborough Zoning Bylaws by adding the phrase which is underlined; or take any other action relative thereto.

2.11.44 Business Uses: Personal Service Facility - Establishments providing services involving the care of a person or his or her apparel such as a barber shop, laundry or dry cleaning shop, diaper service, shoe repair shop, steam baths, reducing salons and health clubs, pet grooming, and clothing rental shop. Submitted by: Planning Board

The Board of Selectmen voted 4-0-0 on a motion by Selectman Jackson, second by Selectman Lambert to place article 26 on the warrant and deferred recommendation to Town Meeting Floor.

- **Article 27.** To see if the Town will vote to amend Section 2.11.50 of the Town of Tyngsborough Zoning Bylaws by deleting the phrase which is lined out and by adding the sentence which is underlined; or take any other action relative thereto.

2.11.50 Accessory Use Regulations – Accessory uses shall be permitted in all districts on the same lot with the principal use subject to the following provisions:

Utility/Storage sheds shall be an accessory use to all single and two family dwellings when said structure is 120 square feet or less (approximately 10ft x 12ft). Such structures shall require a setback of thirty (30) feet from front lot line and not less than ~~ten (10)~~ five (5) feet from side and rear lot lines. Utility/storage sheds larger than 120 square feet shall comply with the setback requirements of Section 2.12.50. Utility and storage sheds shall be used only to store household and garden equipment customarily used for dwellings.

Above Ground Swimming Pools shall be an accessory use to all single and two family dwellings and require a setback of thirty (30) feet from front lot line and not less than ten (10) feet from side and rear lot lines. In-ground pools shall continue to adhere to the dimensional requirements of Section 2.12.50.

Submitted by: Planning Board

The Board of Selectmen voted 4-0-0 on a motion by Selectman Jackson, second by Selectman Lambert to place article 27 on the warrant and deferred recommendation to Town Meeting Floor.

- **Article 28.** To see if the Town will vote to amend Section 2.15.23 of the Town of Tyngsborough Zoning Bylaws by deleting the phrases which are lined out and by adding the phrases which are underlined; or take any other action relative thereto.

2.15.23 Restoration - Restoration of a nonconforming structure, or damaged by fire, flood or other casualty or by vandalism, may be made without conformance to the provisions of this By-law or any amendment hereto, provided that such restoration shall have commenced within six months of the date the damage was sustained and that such restoration continue through to completion as continuously and expeditiously as is reasonable, provided that if the cost of such restoration shall exceed 50% of the fair market value of the structure immediately prior to such damage, as determined by the Building Inspector, such restoration shall only proceed if authorized by special permit **by the Zoning Board of Appeals** and if the ~~Planning Board~~ **Zoning Board of Appeals** shall find that the restoration of the structure would not:

1. Substantially impinge upon any public right of way that adjoins the lot on which the structure is to be constructed;
2. Create a danger to public safety by reason of traffic access, flow and circulation; and
3. Be out of character with the traditional settlement and construction patterns of the area in which it is to be reconstructed.

Submitted by: Planning Board

The Board of Selectmen voted 4-0-0 on a motion by Selectman Jackson, second by Selectman Lambert to place article 28 on the warrant and deferred recommendation to Town Meeting Floor.

- **Article 29.** To see if the Town will vote to amend Section 4.11.30 of the Town of Tyngsborough Zoning Bylaws by deleting the phrases which are lined out and by adding the phrases which are underlined; or take any other action relative thereto.

4.11.30 Decision Criteria

A special permit for a Major Industrial Complex shall be approved only upon determination by the Special Permit Granting Authority that the requirements of section 1.16.00 Special Permits including section 1.16.14 Mandatory Findings of Special Permit Granting Authority and the following additional criteria:

1. The proposed plan is consistent with any submittals made under section ~~4.20.20~~ **4.11.20** and ~~4.20.21~~ **4.11.21**. ~~or In the event of inconsistency, satisfactory explanation has been made shall be~~ submitted showing why the departure is necessitated by changed conditions or earlier error, and that the departure does not reduce compliance with the objectives for the Major Industrial Complexes specified in section ~~4.20.10~~ **4.11.10**.

2. The Complex shall be so designed and located that annual average daily traffic is not increased 25 %, or more, above current levels at any point more than 1,000 feet from the site, with current levels being as determined by the Tyngsborough Planning Board; and shall be so located that resultant traffic is not above the capacity of roads and intersections at level of service "C" at any point within one mile of the premises, using definitions and methods of estimation as outlined by the Transportation Research Board Highway Capacity Manual, Special Report #209 or later editions.

3. Site design and storm water facilities shall be so designed that in a twenty-five year storm the peak storm water flows leaving the premises will not be increased ~~more than 10%~~ above current flows or cause design capacity of receiving structures or channel capacity of receiving streams to be exceeded. Submitted by: Planning Board

The Board of Selectmen voted 4-0-0 on a motion by Selectman Jackson, second by Selectman Lambert to place article 29 on the warrant and deferred recommendation to Town Meeting Floor.

- **Article 30.** To see if the Town will vote to amend Section 4.15.30 of the Town of Tyngsborough Zoning Bylaws by deleting the number which is lined out and by adding the number which is underlined; or take any other action relative thereto.

4.15.30 Decision Criteria - A special permit for temporary independent living quarters shall be approved only upon a determination by the Special Permit Granting Authority that the requirements of Section 1.16.00 Special Permits including 1.16.14 Mandatory Finding of Special Permit Granting Authority and the following additional criteria have been met:

2. That the total square foot areas of the proposed temporary independent living quarters not exceed 20% of the existing living space up to ~~700~~ 1,200 square feet of living space.

Submitted by: Planning Board

The Board of Selectmen voted 4-0-0 on a motion by Selectman Jackson, second by Selectman Lambert to place article 30 on the warrant and deferred recommendation to Town Meeting Floor.

- **Article 31.** To see if the Town of Tyngsborough will vote to amend its Zoning Bylaw by adding a new Section 5.00.00 entitled, Interim Restriction/Moratorium for Medical Marijuana Treatment Centers as follows:

5.00.00 INTERIM RESTRICTION/ MORATORIUM FOR MEDICAL MARIJUANA TREATMENT CENTERS

5.10.00 Purpose. At the November 6, 2012 state election, the voters of the Commonwealth approved legislation regulating the cultivation, distribution, possession and use of marijuana for medical purposes, which legislation became effective on January 1, 2013. The legislation requires the state Department of Public Health to issue regulations regarding implementation of the legislation by May 1, 2013 which are expected to provide guidance in regulating medical marijuana, including medical marijuana treatment centers. As the regulation of medical marijuana raises novel and complex legal and planning issues, the Town requires adequate time to consider whether to allow facilities associated with the medical use of marijuana, to the extent that such facilities are permitted under state laws and regulations, and, if so, where and under what conditions should such facilities be located in the Town of Tyngsborough. Therefore, the Town adopts this temporary moratorium on the use of land and structures in the Town for medical marijuana treatment centers in order to allow the Town sufficient time to engage in a planning process to address the potential impacts on adjacent uses and on general public health, safety and welfare, and to develop and enact zoning bylaws and other applicable regulations that appropriately address these considerations consistent with statewide regulations and permitting procedures, and in a manner consistent with sound land use planning goals and objectives.

5.20.00 Definition. A "Medical Marijuana Treatment Center" as defined under state law as a Massachusetts not-for-profit entity that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana or products containing marijuana and/or related supplies, or educational materials to qualifying patients or their personal caregivers, which is properly licensed and registered by the Massachusetts Department of Public Health.

5.30.00. Exclusion of Other Marijuana Uses. Any establishment that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils, or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana or products containing marijuana and/or related supplies, or educational materials to qualifying patients or their personal caregivers shall not be permitted if such establishment has not been properly licensed and registered by the Massachusetts Department of Public Health, or is not operated as a not-for-profit entity, or otherwise fails to meet the definition of a Medical Marijuana Treatment Center.

5.40.00 Exclusion of Accessory Uses. In no case shall the acquisition, cultivation, possession, processing, transference, transportation, sale, distribution, dispensing, or administration of marijuana, products containing or derived from marijuana, or related products be considered accessory to any use.

5.50.00 Interim Restriction/Moratorium. Medical Marijuana Treatment Centers shall not be permitted in any zoning district in the Town of Tyngsborough so long as this section remains in effect, as set forth below. Use variances are strictly prohibited. During this moratorium period, the Town will undertake a planning process to address the potential impacts of medical marijuana in the Town, consider the Department of Public Health regulations regarding medical marijuana treatment facilities and related uses, and enact zoning bylaws or other regulations to address the impact and operation of medical marijuana treatment centers and their related uses.

5.60.00 Expiration. This section shall be effective for a period of twelve (12) months beginning at the date of the publication of the Planning Board's public hearing for this zoning amendment or until such future time that the Town Meeting enacts superseding zoning bylaws that set forth the allowed zoning districts, dimensional, parking and other requirements applicable to medical marijuana treatment centers and their related uses, whichever occurs first.

5.70.00 Severability. If any provision of this bylaw is held invalid by a court of competent jurisdiction, the remainder of the bylaw shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections of this bylaw shall not affect the validity of the remainder of the Tyngsborough Zoning Bylaw, or take any other action relative thereto. Submitted by: Planning Board and Board of Selectmen

The Board of Selectmen voted 4-0-0 on a motion by Selectman Jackson, second by Selectman Lambert to place article 31 on the warrant and defer recommendation to Town Meeting Floor.

SPECIAL TOWN MEETING WARRANT ARTICLES

- **Article 1.** To see if the Town will vote to raise and appropriate, appropriate by transfer from available funds, and/or appropriate by transfer from one or more municipal government accounts a sum of money to supplement various municipal government groups for fiscal year 2012, or take any other action relative thereto.

Submitted by: Board of Selectmen

The Board of Selectmen voted 4-0-0 on a motion by Selectman Jackson, second by Selectman Reault to place article 1 on the warrant and defer recommendation to Town Meeting Floor.

The Finance Committee deferred recommendation to Town Meeting Floor.

- **Article 2.** To see if the Town will vote to appropriate by transfer a sum of monies from Sewer Enterprise Fund Retained Earnings Reserve to the Sewer Enterprise fund Capital Outlay Account for fiscal year 2012, to be expended by the Sewer Commissioners, or take any other action relative thereto. Submitted by: Sewer Commissioners

The Board of Selectmen voted 4-0-0 on a motion by Selectman Jackson, second by Selectman Reault to place article 2 on the warrant and defer recommendation to Town Meeting Floor.

The Finance Committee deferred recommendation to Town Meeting Floor.

- **Article 3.** To see if the Town will vote raise and appropriate a sum to be expended by the Sewer Commission to pay a prior year's bill, or take any other action relative thereto. Submitted by: Sewer Commissioners

The Board of Selectmen voted 4-0-0 on a motion by Selectman Jackson, second by Selectman Reault to place article 3 on the warrant and defer recommendation to Town Meeting Floor.

The Finance Committee deferred recommendation to Town Meeting Floor.

9. Citizen/Business Time- No one came forward this evening.

Citizens or business owners may contact the Office of the Selectmen to request to address the Selectmen during citizen/business time. Citizens or business owners who have not contacted the Office of the Selectmen in advance may address the Board of Selectmen on matters of interest to the public for not more than five (5) minutes.

10. Correspondence

A list of correspondence will be included with approved meeting minutes per the requirements of the Massachusetts Open Meeting Law and may be posted online at www.tyngsborough.gov. Copies of correspondence may be requested from the Office of the Board of Selectmen.

A. Action

B. Informational

The Board voted 4-0-0 on a motion by Selectman Reault, second by Selectman Lambert to accept the correspondence and adding the new correspondence presented this evening. Selectman

Jackson asks that correspondence from the Town of Norton be placed on the Selectmen's next scheduled agenda for discussion and action.

11. Review of Weekly Warrants

Administrator read the weekly warrants into the minutes as follows: Warrant #44S for \$286,772.89 on 4/29/2013; Warrant #44B for \$698,018.40 on 4/29/2013; Warrant #45P for \$800,404.37 on 5/6/2013; and Warrant #45B for \$893,303.96 on 5/6/2013.

12. Town Administrator's Reports

The Administrator has no written report this evening. The Recreation Director asked if she could have a senior member from the Tax Work Off Program assist in the concession stand at the ball park. The Assistant Town Administrator was asked if she could pursue grant funding from the Massachusetts Historical Commission (Selectman Lambert left the meeting temporarily) to discuss the nomination of two town buildings for historic placement. The Assistant will collect the information and will bring the data to the Historical Commission.

13. Selectmen's Reports

Selectman Reault reports that the Old Town Hall Project is moving along well and there will be pictures to show at the Town Meeting. The roof work and the foundation for the rear addition is nearly done. Selectman Lambert informs the public that the Highway Dept. has scheduled yard waste pickup for May 10; that hazardous waste day at the Highway Garage is May 18 and the Annual Town Meeting is on Tuesday May 21. Selectwoman Puleo thanked Ann Tinnirella on her tireless efforts in supporting her community in the many fund raisers.

14. Executive Session (if needed)

~~The board may move to go into executive session to discuss strategy with respect to collective bargaining, litigation, or exempt negotiations if an open meeting may have a detrimental effect on such subject matters.~~

The Board voted 4-0-0 on a motion by Selectman Reault, second by Selectman Jackson to enter into Executive Session to discuss for the following :

- A. Exemption Two – To conduct strategy sessions in preparation for negotiations with nonunion personnel or conduct contract negotiations with nonunion personnel – Police Chief and Police Chief benefits
- B. Exemption Three – To discuss strategy with respect to collective bargaining because an open meeting may have a detrimental effect on the bargaining position of the Board and the chair so declares – Clerical Union; Mid-Managers Union
- C. Exemption Seven - To comply with, or act under the authority of, any general or special law or federal grant-in-aid requirements – MGL Ch. 214 Sec. 1B

and to exit executive session only to adjourn. Roll Call Vote: Selectman Rick Reault, yes; Selectman Robert Jackson, yes; Selectwoman Karyn Puleo, yes; Selectman Corliss Lambert, yes.

The Board entered into Executive Session at 9:15 PM.

15. Adjournment

The Board voted 5-0-0 on a motion by Selectman Reault, second by Selectman Lambert to adjourn the meeting at 9:45 PM.

Respectfully submitted

Therese Gay
Admin Assistant

Approved on: Monday May 13, 2013

Board of Selectmen Correspondence May Week Ending May 3, 2013

[illegible]



TOWN OF TYNGSBOROUGH

Office of the Board of Selectmen

25 Bryants Lane

Tyngsborough, MA 01879

Tel: 978 649-2300 Ext. 100

Fax: 978 649-2320

Board of Selectmen Meeting Notice

Monday, May 6, 2013 at 6:00 P.M.

Community Room, Town Offices, 25 Bryants Lane

The listing of matters are those reasonable anticipated by the Chairman which may be discussed at the meeting. Not all items listed may in fact be discussed, and other items not listed may also be brought up for discussion to the extent permitted by law.

1. 6:00 PM Open Meeting/Pledge of Allegiance/Board Introduction/Read Agenda

2. Reorganization

3. 6:05 PM Special Permit Request – Pheasant Lane Mall, Middlesex Rd Parking Lot

4. 6:20 PM Manager Change Request – GMRI. Inc. DBA Bahama Breeze

5. Meeting Minutes

A. Regular Session Meeting Minutes for Approval

1. Monday April 22, 2013

2. Monday April 29, 2013

B. Executive Session Minutes for Approval but not Release

1. Monday April 22, 2013

6. Citizen/Business Time

Citizens or business owners may contact the Office of the Selectmen to request to address the Selectmen during citizen/business time. Citizens or business owners who have not contacted the Office of the Selectmen in advance may address the Board of Selectmen on matters of interest to the public for not more than five (5) minutes.

7. Old Business

A. Town Accountant – Review/Appoint

B. Board of Health Administrative Assistant – Review/Accept

C. 11 Indian Lane – Status

D. Legislative Priorities – Update

E. Senior Center – Status Update

F. Cable Franchise Agreement – Status Update

G. Annual/Special Town Meeting Warrant – Review and Discuss Draft Articles

8. 7:00 PM Joint Meeting with Finance Committee

A. Review/Approve FY 2014 Budget

B. Review / Recommend Draft Warrant Articles

9. Citizen/Business Time

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Office of the Selectmen in advance may address the Board of Selectmen on matters of interest to the public for not more than five (5) minutes.

10. Correspondence

A list of correspondence will be included with approved meeting minutes per the requirements of the Massachusetts Open Meeting Law and may be posted online at www.tyngsboroughma.gov. Copies of correspondence may be requested from the Office of the Board of Selectmen.

- A. Action
- B. Informational

11. Review of Weekly Warrants

12. Town Administrator's Reports

- Response to Selectmen's Requests
- Budget
- Departmental Information
- Contracting/Procurement
- Other

13. Selectmen's Reports

14. Executive Session (if needed)

The board may move to go into executive session to discuss strategy with respect to collective bargaining, litigation, or exempt negotiations if an open meeting may have a detrimental effect on such subject matters.

- A. Exemption Two – To conduct strategy sessions in preparation for negotiations with nonunion personnel or conduct contract negotiations with nonunion personnel – Police Chief and Police Chief benefits
- B. Exemption Three – To discuss strategy with respect to collective bargaining because an open meeting may have a detrimental effect on the bargaining position of the Board and the chair so declares – Clerical Union; Mid-Managers Union
- C. Exemption Seven - To comply with, or act under the authority of, any general or special law or federal grant-in-aid requirements – MGL Ch. 214 Sec. 1B

15. Adjournment

Future Meetings

Monday, May 13th and/or Monday, May 20th, 2013, if necessary

**Annual and Special Town Meeting – Tuesday, May 21, 2013 at 7:00 PM
at Tyngsborough Elementary School**